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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/677,054	09/29/2000	Krishna Kishore Dhara	Dhara 3-3-2	1689

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EXAMINER

NGUYEN, BRIAN D

ART UNIT	PAPER NUMBER
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2661

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DATE MAILED: 07/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/677,054

Applicant(s)

DHARA ET AL.

Examiner

Brian D Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on the amendment filed 4/28/04.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-17 and 19-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3 and 5-8 is/are allowed.
- 6) ☒ Claim(s) 19-24 is/are rejected.
- 7) ☒ Claim(s) 4 and 10-17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 September 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Objections*

1. Claims 4, 10-17, and 24 are objected to because of the following informalities:

Claim 4, line 2, "said network" seems to refer back to "said data packet network" in line 2 of claim 3. If this is true, it is suggested to change "said network" to ---said data packet network---.

Claim 10, it is suggested to insert ---for transporting signaling traffic--- after "a signaling link" in line 5 and ---for transporting voice traffic--- after "a voice path" in line 6 and insert ---said--- before "voice traffic" in line 7 and "signaling traffic" in line 8 in order to clarify that voice traffic and signaling traffic are transmitted via different medium in case the local power is not lost.

Claim 15, line 2, "said network" seems to refer back to "said data packet network" in line 2 of claim 14. If this is true, it is suggested to change "said network" to ---said data packet network---.

Claim 24, line 1, "said digital signal portion" seems to refer back to "a digital signal processing portion" in line 8 of claim 19. If this is true, it is suggested to change "said digital signal portion" to ---said digital signal processing portion---.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 19-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Menon et al (6,208,627) in view of Lehr et al (6,643,566).

Regarding claims 19 and 23, Menon discloses an apparatus comprising a data portion for interfacing with a data network (125) and a cellular portion for interfacing with a wireless network (106); a user interface portion for interfacing with peripheral devices (102); a digital signal processing portion (within CPE) coupled to data and cellular portions (see figure 1; col. 4, lines 25-67). Menon does not specifically disclose a battery backup portion for detecting power failure. However, to use a battery backup is a matter of choice. Lehr discloses the use of the battery backup (see col. 1, lines 45-52). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use the battery backup as taught by Lehr in the system of Menon in order to prevent interruption of service.

Regarding claims 20-22 and 24, Menon discloses random access memory, processor, and codec (see figure 2).

#### ***Response to Arguments***

4. Applicant's arguments with respect to claims 19-24 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Allowable Subject Matter***

5. Claims 1-3 and 5-8 are allowed.

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6. Claims 4 and 10-17 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

*Conclusion*

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Betts et al (6,327,352) and Gardner et al (6,704,327) disclose a system and a method in which out-of-band signaling is used.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian D Nguyen whose telephone number is (703) 305-5133. The examiner can normally be reached on 7:30-6:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doug Olms can be reached on (703) 305-4703. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



7/15/04

**BRIAN NGUYEN**  
**PRIMARY EXAMINER**